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Electronically Filed April 19, 2023

10

11 **UNITED STATES BANKRUPTCY COURT**

12

13 **DISTRICT OF NEVADA**

14 In re

Case No. BK-23-10423-mkn

15 CASH CLOUD, INC.,  
 16 dba COIN CLOUD,

Chapter 11

17 Debtor.

18

19 **MOTION FOR ENTRY OF AN ORDER**  
**APPROVING KEY EMPLOYEE**  
**RETENTION PROGRAM AND**  
**GRANTING RELATED RELIEF**

20

Hearing Date: OST PENDING  
 Hearing Time: OST PENDING

21

22 Cash Cloud, Inc., dba Coin Cloud (the “Debtor”), debtor and debtor in possession in the  
 23 above-captioned chapter 11 case (the “Chapter 11 Case”), by and through its undersigned counsel,  
 24 Fox Rothschild LLP, respectfully submits this motion (the “Motion”) to the Court for entry of an  
 25 order, substantially in the form attached hereto as Exhibit 1 (the “Proposed Order”), approving the  
 26 Debtor’s proposed key employee retention program (the “KERP”) and granting the Debtor such other  
 27 relief as the Court deems just and proper.

28

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1       The Motion is made and based upon the following memorandum of points and authorities, the  
2 *Declaration of Chris McAlary* (the “McAlary Declaration”) filed in support of this Motion, the papers  
3 and pleadings on file with the Court in this Chapter 11 Case, and any oral arguments the Court may  
4 entertain at the hearing on the Motion.

5                     DATED this 19th day of April 2023.

6  
7                     **FOX ROTHSCHILD LLP**

8                     By: \_\_\_\_\_ */s/Brett Axelrod*

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17                     *Counsel for Debtor*

## **MEMORANDUM OF POINTS AND AUTHORITIES**

I.

## **JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue of the Debtor's Chapter 11 Case in this district is proper pursuant to 11 U.S.C. § 1408 and 1409.

2. The statutory bases for the relief herein are sections 105(a), 363(b), and 503(c) of title 11 of the United States Code (the “Bankruptcy Code”).

3. The Debtor consents to the entry of a final order on this matter by this Court.

II.

## **FACTUAL BACKGROUND**

4. On February 7, 2023 (the “Petition Date”), Debtor filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code.

5. Debtor is continuing in possession of its property and is operating and managing its business as debtor in possession, pursuant to Bankruptcy Code sections 1107 and 1108. See generally Chapter 11 Case Docket.

6. On February 17, 2023, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the “Committee”) [ECF No. 131], as amended on February 28, 2023 [ECF No. 177].

7. No request has been made for the appointment of a trustee or examiner.

8. The factual background relating to the Debtor's commencement of the Chapter 11 Case is set forth in detail in the *Omnibus Declaration of Christopher Andrew McAlary in Support of Emergency First Day Motions* [ECF No. 19] (the “Omnibus Declaration”) and is incorporated for all purposes herein by this reference.

1       **B. General Employee Overview and Need for the KERP.**

2           9.       As of the Petition Date, the Debtor employed 85 employees on a full-time basis and  
 3 three individuals on a part-time basis. None of the Debtor's employees are subject to collective  
 4 bargaining agreements. Of the Debtor's employees, and as described in more detail herein, the Debtor  
 5 has identified twenty-eight (28) key, non-insider employees (the "Participants") for targeted and  
 6 reasonable retention incentives. See McAlary Declaration ¶ 4.

7           10.      On the Petition Date, the Debtor filed its *Emergency First Day Motion for an Order:*  
 8 *(i) Authorizing the Debtor to Pay Prepetition Wages and Policies; and (ii) Authorizing and Directing*  
 9 *Financial Institutions to Honor Checks and Transfers Related to Such Obligations* [ECF No. 6] (the  
 10 "Wage Motion"). Among other things, the Wage Motion sets forth the various programs and  
 11 compensation that the Debtor has offered its employees on a prepetition basis in the ordinary course  
 12 of business.

13          11.      The Wage Motion does not discuss the need for postpetition compensation plans that  
 14 that will incentivize retention of key employees who are vital to the Debtor's business and  
 15 reorganization efforts. Through the KERP, as further described herein, the Debtor proposes to  
 16 incentivize the Participants to remain with the Debtor so as to ensure continuity and stability during  
 17 the Chapter 11 Case.

18          12.      As set forth in the Wage Motion and Omnibus Declaration, the employee count has  
 19 already been reduced prior to the Petition Date. In attempting to restructure the business, the Debtor,  
 20 during the second half of 2022, reduced its staff from about 190 employees to a current total of about  
 21 85 employees, resulting in an approximately 52% reduction in the cost of labor. Additionally, since  
 22 the Petition Date, Debtor has lost approximately six employees critical to its operations and  
 23 restructuring efforts, and is at a critical point where employee retention is key to the reorganization  
 24 efforts of the Debtor. While reducing the workforce in exchange for cost savings was a necessary step  
 25 in restructuring its business, this means that the bare minimum amount of employees remains as of  
 26 the Petition Date, and losing any more key personnel because of voluntary resignation will negatively  
 27 impact the Debtor's operations, and, therefore, the estate and chances for a successful reorganization.  
 28 See McAlary Declaration ¶ 5.

1       13. The Debtor believes that the KERP is necessary because the Participants may be  
 2 motivated to leave the Debtor's employ during the pendency of this Chapter 11 Case due to, among  
 3 other things, the uncertainty created by the Debtor's ongoing reorganization efforts and the recent,  
 4 and significant, reduction in force efforts initiated prior to the commencement of this Chapter 11  
 5 Case. Accordingly, the Debtor submits that the KERP will increase the likelihood that the key  
 6 employees are not disadvantaged by recent events, and are properly incentivized to remain with the  
 7 Debtor during this Chapter 11 Case, thereby preserving value for the Debtor, its estate, and its  
 8 stakeholders. Indeed, without the KERP, the Debtor does not believe it can retain the employees who  
 9 are vital to the Debtor's operations, which would put reorganization and this Chapter 11 Case at risk.

10 See McAlary Declaration ¶ 6.

11 **C. Description of the KERP**

12       *i. The KERP Participants*

13       *a. The Participants Have Increased Responsibilities During the Chapter 11 Case*

14       14. Of the Debtor's approximately 85 current employees, the Debtor has designated 28  
 15 key employees as Participants who perform a variety of important business functions that are vital to  
 16 the Debtor's business and preserving value for the future. Many of the Participants have developed  
 17 valuable institutional knowledge regarding the Debtor's operations that would be difficult and  
 18 expensive to replace, particularly on an expedited basis. See McAlary Declaration ¶ 7. In connection  
 19 with the Chapter 11 case, employees have, in addition to their primary responsibilities, assumed the  
 20 burden of significant chapter 11-related tasks. Id. ¶ 8. In particular, the employees have expended  
 21 extraordinary effort performing tasks related to the preparation of background information for the  
 22 Debtor's first-day filings, schedules and statement of financial affairs, trustee and creditor's  
 23 committee due diligence requests, preparation of monthly operating reports, and management of the  
 24 Debtor's available documents in its data room. Id. ¶ 9. The Debtor's employees continue to perform  
 25 the above-mentioned tasks in light of significant attrition, including significant turnover in senior  
 26 leadership, including, among others, certain members of the board of directors, the chief operating  
 27 officer, chief financial officer, vice president of compliance, and vice president of product and  
 28 engineering. Id. ¶ 10. Furthermore, the headcount reductions by department place further burdens on

1 the remaining employees, including the Participants. Id. ¶ 11. As such, the Participants are essential  
 2 to the successful administration of the Debtor's Chapter 11 Case. Id. ¶ 12. The cost of the KERP on  
 3 a Participant-by-Participant basis is significantly less than the cost of replacing each Participant.  
 4 Moreover, the Participants provide important support to the Debtor's advisors in meeting the  
 5 additional demands imposed by the Chapter 11 Case. Id. ¶ 13.

6       15. The Participants may be motivated to leave the Debtor during the pendency of this  
 7 Chapter 11 Case due to, among other things, the uncertainty created by the Debtor's ongoing  
 8 reorganization. See McAlary Declaration ¶ 14.

9           ***b. None of the Participants are "Insiders"***

10       16. Although certain Participants have titles incorporating the word "head," "director,"  
 11 "vice president," or "chief," no Participant is an "insider" of the Debtor. First, no Participant in the  
 12 proposed KERP is an employee who was appointed or hired directly by the Debtor's board of  
 13 directors. See McAlary Declaration ¶ 15. Second, none of the Participants have discretionary control  
 14 over substantial budgetary amounts. Id. ¶ 16. Third, no Participant exercises managerial control  
 15 over, or has responsibility for, the Debtor's operations as a whole. Id. ¶ 17. Finally, none of the  
 16 Participants directs the Debtor's overall corporate policy or governance. For example, Participants  
 17 are in discrete departments with discrete tasks such as financial planning and analysis, human  
 18 resources, information systems technology, cash logistics, sales and marketing, warehousing,  
 19 security, and client and administrative support. Id. ¶ 18.

20           ***ii. The KERP Provisions***

21       17. Under the proposed KERP, nine (9) of the Participants will receive 10% of his or her  
 22 annual base salary, and nineteen (19) of the Participants will receive a fixed bonus of \$1,500.00  
 23 (collectively, the "Retention Bonus"). The proposed Retention Bonus will be paid according to the  
 24 following payment schedule: (i) the 19 Participants receiving the fixed \$1,500.00 Retention Bonus  
 25 will be entitled to be paid upon the date of a final order granting this Motion, (ii) the additional 9  
 26 Participants will be entitled to be paid 50% of his or her Retention Bonus upon the date of a final  
 27 order granting this Motion (the "First Installment"), and will be entitled to be paid the remaining 50%  
 28 of his or her Retention Bonus (the "Second Installment") as follows: (a) the date of closing of a

1 transaction for a sale of substantially all of the Debtor's assets, (b) the confirmation of a plan of  
 2 reorganization, (c) the conversion of this Chapter 11 Case to a case under chapter 7 of the Bankruptcy  
 3 Code, or (d) the date of the dismissal of the Chapter 11 Case (collectively, the "Exit Events").  
 4 However, if a Participant who received a Retention Bonus voluntarily ceases his or her employment  
 5 prior to an Exit Event (or is terminated "for cause"), such Retention Bonus shall be subject to  
 6 recapture by the Debtor's estate. See McAlary Declaration ¶ 19.

7       18. The aggregate maximum cost of the KERP is \$170,979.04. See McAlary Declaration  
 8 ¶ 20.

9       19. Additional details regarding the Participants are set forth below:

<b>Salary Range</b>	<b>Number of Participants</b>
\$75,000–\$124,999	22
\$125,000–\$174,999	3
\$175,000–\$224,999	3
<b>Award Range</b>	<b>Number of Participants</b>
\$1,500	19
\$7,500–\$12,499	3
\$12,500–\$17,499	3
\$17,500–\$22,499	3

16 See McAlary Declaration ¶ 21.

17       iii. **Reasonableness of the KERP**

18       20. The Debtor submits that there is a sound business justification for implementing the  
 19 KERP. The Retention Bonuses will help to ensure that the Debtor maintains its business operations,  
 20 preserves its financial condition, and executes its obligations as debtor in possession through the  
 21 Chapter 11 Case. Without the ability to offer the Retention Bonuses to the KERP Participants, the  
 22 Debtor risks losing employees who serve critical roles within the Debtor's business operations. If the  
 23 uncertainty resulting from the Chapter 11 Case causes such employees to accept other employment,  
 24 the Debtor risks losing considerable value that could otherwise be used to pay the claims of creditors  
 25 and reorganize its business. The cost of the KERP is reasonable in comparison to the losses that the  
 26 Debtor and parties-in-interest would suffer without implementing measures to retain these key  
 27 employees. See McAlary Declaration ¶ 22.

1           21. The Debtor submits that the approval of the KERP is in the best interest of the Debtor's  
2 estate and all parties-in-interest. See McAlary Declaration ¶ 23.

III.

## **RELIEF REQUESTED**

5        22. By this Motion, the Debtor seeks the entry of an order, pursuant to sections 105(a),  
6 363(b), and 503(c) of the Bankruptcy Code, authorizing and approving the KERP, authorizing (but  
7 not directing) the Debtor to make any payments that may become due thereunder, and granting the  
8 Debtor such other relief as the Court deems just and proper.

9       23. The Debtor also requests that all amounts earned and payable under the KERP be  
10 afforded administrative expense priority under sections 503(b) and 507(a)(2) of the Bankruptcy Code  
11 for all purposes in the Chapter 11 Case and in any other case under the Bankruptcy Code to which  
12 such case may be converted.

IV.

## **LEGAL AUTHORITY**

A. **Implementation of the KERP is Warranted Under Section 363(b)(1) as an Appropriate Exercise of the Debtor’s Business Judgment**

17       24. The Debtor's implementation of the KERP is a sound exercise of its business  
18 judgment. Section 363(b) of the Bankruptcy Code provides that a debtor "after notice and a hearing  
19 may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C.  
20 § 363(b)(1). The use, sale, or lease of property of the estate other than in the ordinary course of  
21 business is authorized when a "sound business justification" supports such action. See, e.g., Walter  
22 v. Sunwest Bank (In re Walter), 83 B.R. 14, 17 (9th Cir. B.A.P. 1988) (quoting with approval the  
23 requirement, set forth in Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d  
24 1063, 1070-71 (2d Cir. 1983), that a debtor articulate a "sound business justification" to sell property  
25 outside the ordinary course of business); In re Associated of L.A., No. 10-22784, 2010 WL 472303,  
26 at \*2 (Bankr. C.D. Cal. July 15, 2010) (holding that a debtor had provided "good and sufficient  
27 business justification" to support a sale of assets pursuant to section 363(b)); In re Galleria USA, Inc.,  
28 No. 09-20651, 2010 WL 4519724, at \*2 (Bankr. C.D. Cal. Jan. 13, 2010).

1           25. Once a debtor articulates a valid business justification, the law vests the debtor's  
 2 decision to use property outside of the ordinary course of business with a strong presumption that  
 3 "the directors of a corporation acted on an informed basis, in good faith and in the honest belief that  
 4 the action was taken in the best interests of the company." In re Integrated Res., Inc., 147 B.R. 650,  
 5 656 (S.D.N.Y. 1992) (citations and internal quotations omitted), appeal dismissed, 3 F.3d 49 (2d Cir.  
 6 1993); see also In re Johns-Manville Corp., 60 B.R. 612, 615–16 (Bankr. S.D.N.Y. 1986) (a  
 7 "presumption of reasonableness attaches to a debtor's management decisions" and courts will  
 8 generally not entertain objections to the debtor's conduct after a reasonable basis is set forth). Thus,  
 9 if a debtor's actions satisfy the business judgment rule, then the transaction in question should be  
 10 approved under section 363(b)(1) of the Bankruptcy Code.

11           26. Courts have found that a debtor's use of reasonable bonuses and other incentives to  
 12 motivate employees is a valid exercise of a debtor's business judgment. See, e.g., In re Am. W.  
 13 Airlines, Inc., 171 B.R. 674, 678 (Bankr. D. Ariz. 1994) (finding that it is the proper use of a debtor's  
 14 business judgment to propose bonuses for employees who helped propel the debtor successfully  
 15 through the bankruptcy process).

16           27. The Debtor submits that the KERP is a sound exercise of the Debtor's business  
 17 judgment. See McAlary Declaration ¶ 24.

18 **B. The KERP is Warranted Under Section 503(b)(1) as Actual, Necessary Costs of**  
**Preserving the Debtor's Estate**

19           28. Section 503(b) of the Bankruptcy Code states in pertinent part that "[a]fter notice and  
 20 a hearing, there shall be allowed administrative expenses . . . including – (1)(A) the actual necessary  
 21 costs and expenses of preserving the estate including – (i) wages, salaries, and commissions for  
 22 services rendered after commencement of the case. . ." 11 U.S.C. § 503(b); see also In re APF Co.,  
 23 270 B.R. 567, 570-71 (Bankr. D. Del. 2001) (postpetition employee bonus is an administrative  
 24 expense claim under section 503(b)(1)(A)). As discussed above, the KERP is appropriately designed  
 25 to maximize the value of the Debtor's estate and is appropriately categorized as wages earned after  
 26 the Petition Date.

1           **C. The KERP Is Justified by the Facts and Circumstances of the Chapter 11 Case**

2           29.     Section 503(c)(3) of the Bankruptcy Code permits payments to a debtor's employees  
 3 outside the ordinary course of business if such payments are justified by "the facts and circumstances  
 4 of the case." 11 U.S.C. § 503(c)(3). Importantly, courts have found that section 503(c)(3)'s "facts  
 5 and circumstances" justification test is predicated on a test similar to the business judgment rule. In  
 6 re Montgomery Ward Holding Corp., 242 B.R. 147, 153 (D. Del. 1999) (affirming bankruptcy court  
 7 approval of the debtors' KERP on basis that debtors showed a "sound business purpose" justified  
 8 such approval); In re Borders Grp. Inc., 453 B.R. 459, 473–74 (Bankr. S.D.N.Y. 2011) (evaluating  
 9 debtors' KERP under business judgment rule); In re Glob. Home Prod., LLC, 369 B.R. 778, 786  
 10 (Bankr. D. Del. 2007) (describing six factors that courts may consider when determining whether the  
 11 structure of a compensation proposal meets the "sound business judgment test" in accordance with  
 12 section 503(c)(3) of the Bankruptcy Code (citing In re Dana Corp., 358 B.R. 567, 576–77 (Bankr.  
 13 S.D.N.Y. 2006))). Accordingly, whether a retention plan is justified by the facts and circumstances  
 14 of the case and the analysis of whether the approval of such plan is a sound exercise of the debtor's  
 15 business judgment are the same.

16           30.    Courts assessing a debtor's business judgment relating to an incentive program under  
 17 section 503(c)(3) look at six factors (the "Dana Factors"): (a) whether a reasonable relationship  
 18 existed between the proposed plan and the desired results; (b) whether the cost of the plan was  
 19 reasonable in light of the overall facts of the case; (c) whether the scope of the plan was fair and  
 20 reasonable; (d) whether the plan was consistent with industry standards; (e) whether the debtor had  
 21 put forth sufficient due diligence efforts in formulating the plan; and (f) whether the debtor received  
 22 sufficient independent counsel in performing any due diligence and formulating the plan. Dana Corp.,  
 23 358 B.R. at 576-77.

24           31.    In this Chapter 11 Case, the Debtor meets all of the Dana Factors: the Debtor's overall  
 25 goal with respect to the KERP is to maximize the value of the Debtor's assets and provide stability  
 26 for reorganization. While all of the Debtor's employees play a role in the Debtor's overall financial  
 27 success, the Debtor has limited participation under the KERP to critical employees, i.e., those  
 28 employees who are most influential in the Debtor's ability to preserve the value of the estate.

1 Moreover, the Debtor submits that the cost and scope of the KERP is reasonable in light of the overall  
 2 facts and circumstances of this Chapter 11 Case and consistent with industry standards. The Debtor  
 3 has worked with its financial advisor in the design of the KERP.

4       32. For the foregoing reasons, the KERP should be authorized because it satisfies the  
 5 “sound business judgment standard” identified in In re Dana Corp.

6 **C. Authorization of the KERP is Appropriate Under Section 105(a) of the Bankruptcy Code**

7       33. Section 105(a) of the Bankruptcy Code allows the Court to “issue any order, process,  
 8 or judgment that is necessary to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C.  
 9 § 105(a); see also U.S. v. Energy Res. Co., 495 U.S. 545, 549 (1990); Adelphia Comm’cns Corp. v.  
 10 Am. Channel (In re Adelphia Comm’cns Corp.), 345 B.R. 69, 85 (Bankr. S.D.N.Y. 2006) (“Section  
 11 105(a) provides broad equitable power for a Bankruptcy Court to maintain its own jurisdiction and to  
 12 facilitate the reorganization process.”); Gillman v. Cont’l Airlines (In re Cont’l Airlines), 203 F.3d  
 13 203, 211 (3d Cir. 2000) (“Section 105(a) of the Bankruptcy Code supplements courts’ specifically  
 14 enumerated bankruptcy powers by authorizing orders necessary or appropriate to carry out provisions  
 15 of the Bankruptcy Code.”).

16       34. As previously stated, the Debtor strongly and reasonably believes that the KERP is  
 17 critical to the success of the Debtor’s Chapter 11 Case. Payment of the Retention Bonuses seeks to  
 18 avoid the drastic negative impact that would result from losing any of the Participants during the  
 19 Chapter 11 Case. The Debtor submits that such payments are necessary to maximize value of its  
 20 estate for the benefit of its creditors, and approval of the KERP would be a proper application of the  
 21 Court’s authority under Section 105(a) of the Bankruptcy Code.

22 **D. The KERP Does Not Include Insiders, so it is not Subject to Section 503(c)(1)**

23       35. Because none of the Participants are “insiders” as that term is defined by the  
 24 Bankruptcy Code, section 503(c)(1) is inapplicable. Section 503(c)(1) of the Bankruptcy Code  
 25 restricts payments made to “insiders of the debtor for the purpose of inducing such person to remain  
 26 with the debtor’s business”—*i.e.*, those insider plans that are essentially “pay to stay” plans. 11 U.S.C.  
 27 503(c)(1). By its terms, section 503(c)(1) of the Bankruptcy Code does not apply where—as is the  
 28 case here—participants in a retention-based program are not insiders.

1       36. Section 101(31) of the Bankruptcy Code provides that where a debtor is a corporation,  
2 insiders include any “(i) director of the debtor; (ii) officer of the debtor; (iii) person in control of the  
3 debtor . . . or (iv) relative of a . . . director, officer or person in control of the debtor.” 11 U.S.C. §  
4 101(31)(B). Courts have also concluded that an employee may be an “insider” if such employee “is  
5 taking part in the management of the debtor.” In re Foothills Texas, Inc., 408 B.R. 573, 579 (Bankr.  
6 D. Del. 2009). An employee’s job title alone does not make such employee an “insider” as defined  
7 by the Bankruptcy Code. See Glob. Aviation Holdings, Inc., 478 B.R. 142, 148 (Bankr. E.D.N.Y.  
8 2012) (“The fact that some of the KERP Employees have the word “director” in their titles does not  
9 make them insiders. The label an employer chooses to attach to a position is not dispositive for  
10 purposes of insider analysis because ‘[c]ompanies often give employees the title ‘director’ or  
11 ‘director-level’ but do not give them decision-making authority akin to an executive.’”).

12       37. Although certain Participants hold titles including the term “head,” “director,” “vice  
13 president,” or “chief,” none of the Participants are “insiders,” as such term is defined by section  
14 101(31) of the Bankruptcy Code. None of the Participants have discretionary control over substantial  
15 budgetary amounts or significant control with respect to the Debtor’s corporate policies or  
16 governance. Therefore, the Debtor respectfully submits that none of the Participants constitute  
17 “insiders” of the Debtor, and the restrictions of section 503(c)(1) of the Bankruptcy Code are  
18 inapplicable to the KERP.

V.

**REQUEST FOR RELIEF PURSUANT TO BANKRUPTCY RULE 6004**

38. Rule 6004(h) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”)  
provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration  
of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h).  
Debtor respectfully submits that, in light of the exigent circumstances described above, waiver of the  
stay under Bankruptcy Rule 6004(h), if applicable to the Proposed Order, is appropriate and justified.  
See McAlary Declaration ¶ 25.

1 VI.

2 **NO PRIOR REQUEST**

3 39. Debtor has not previously sought the relief requested herein from this or any other  
4 Court. See McAlary Declaration ¶ 26.

5 VII.

6 **CONCLUSION**

7 WHEREFORE, Debtor respectfully requests that the Court enter the Proposed Order attached  
8 hereto as Exhibit 1 (i) authorizing and approving the KERP and (ii) granting Debtor such other relief  
9 as the Court deems just and proper

10 Dated this 19th day of April 2023.

11 **FOX ROTHSCHILD LLP**

12 By: /s/Brett Axelrod  
13 BRETT A. AXELROD, ESQ.  
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21 *Counsel for Debtor*

**EXHIBIT B**  
**\*PROPOSED FORM OF ORDER\***

BRETT A. AXELROD, ESQ.  
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*Counsel for Debtor*

**UNITED STATES BANKRUPTCY COURT**

## DISTRICT OF NEVADA

In re	Case No. BK-23-10423-mkn
CASH CLOUD, INC., dba COIN CLOUD,	Chapter 11
	<b>ORDER APPROVING KEY EMPLOYEE RETENTION PROGRAM AND GRANTING RELATED RELIEF</b>
Debtor.	

Hearing Date:  
Hearing Time:

1       Upon the motion (the “Motion”)<sup>1</sup> of the Debtor in the above-captioned chapter 11 case for  
 2 the entry of an order approving the Debtor’s key employee retention plan (the “KERP”); and upon  
 3 consideration of the *Declaration of Chris McAlary* in support of the Motion; and this Court having  
 4 jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C.  
 5 §§ 157 and 1334; and the consideration of the Motion and the relief requested therein being a core  
 6 proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28  
 7 U.S.C. §§ 1408 and 1409; and this Court having determined that the legal and factual bases set forth  
 8 in the Motion establish just cause for the relief granted herein; and this Court having determined that  
 9 notice of the Motion as provided therein was good and sufficient; and this Court having determined  
 10 that the relief sought in the Motion is in the best interest of the Debtor, its creditors, and all parties-  
 11 in-interest; and after due deliberation, it is hereby

12       **ORDERED** that the Motion is granted as set forth herein; and it is further ORDERED that  
 13 the KERP is approved on the terms described in the Motion; and it is further

14       **ORDERED** that the Debtor is authorized and empowered, but not directed, to take all actions  
 15 necessary to implement the KERP, to make all payments pursuant thereto, and to implement any relief  
 16 granted in this Order; and it is further

17       **ORDERED** that all amounts earned and payable under the KERP shall have administrative  
 18 expense priority under sections 503(b) and 507(a)(2) of the Bankruptcy Code for all purposes in the  
 19 Chapter 11 Case and in any other case under the Bankruptcy Code to which such case may be  
 20 converted; and it is further

21       **ORDERED** that the Debtor may add a replacement participant(s) to the KERP upon the  
 22 resignation or the termination for cause of any Participant, subject to the approval of the unsecured  
 23 creditors’ committee; and it is further

24       **ORDERED** that notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this  
 25 Order are immediately effective and enforceable upon its entry; and it is further

26  
 27       

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to such terms  
 28 in the Motion.

1           **ORDERED** that this Court shall retain jurisdiction to hear and determine all matters arising  
2 from or related to the implementation of this Order.

3  
4 Respectfully submitted by:

5  
6 **FOX ROTHSCHILD LLP**

7 By: /s/Brett Axelrod  
8           BRETT A. AXELROD, ESQ.  
9           Nevada Bar No. 5859  
10          NICHOLAS A. KOFFROTH, ESQ.  
11          Nevada Bar No. 16264  
12          ZACHARY T. WILLIAMS, ESQ.  
13          Nevada Bar No. 16023  
14          1980 Festival Plaza Drive, Suite 700  
15          Las Vegas, Nevada 89135

16          *Counsel for Debtor*

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Las Vegas, Nevada 89135  
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(702) 597-5503 (fax)

17          **CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021**

18          In accordance with Local Rule 9021, counsel submitting this document certifies as follows:

19           The Court has waived the requirement of approval in LR 9021(b)(1).

20           No party appeared at the hearing or filed an objection to the motion.

21           I have delivered a copy of this proposed order to all counsel who appeared  
22 at the hearing, any unrepresented parties who appeared at the hearing, and  
each has approved or disapproved the order, or failed to respond, as  
indicated below:

23  
24           I certify that this is a case under Chapter 7 or 13, that I have served a  
25 copy of this order with the motion pursuant to LR 9014(g), and that no  
party has objected to the form or content of the order.

26                                 # # #  
27  
28